

## **PUBLIC HEALTH GUIDANCE FOR COMMUNITY-LEVEL PREPAREDNESS AND RESPONSE TO SEVERE ACUTE RESPIRATORY SYNDROME (SARS)**

### **SUPPLEMENT A: COMMAND AND CONTROL**

#### **I. Operational Authority**

The preparation for and response to an outbreak of SARS requires a coordinated response by public health authorities and possibly other emergency response entities at the local, state, and federal levels of government. Although state and local governments have primary responsibility for responding to an outbreak of SARS within their jurisdictions, the federal government has authority to support affected states or jurisdictions as necessary.

##### **A. Federal Authority**

The U.S. Government Interagency SARS Concept of Operations Plan (CONPlan) describes plans for the federal response to a future outbreak of SARS. According to this plan, the Department of Health and Human Services (HHS) is the U.S. Government's lead agency for the preparation, planning, and response to a SARS outbreak. As such, HHS will coordinate the U.S. Government's response to the public health and medical requirements of a SARS outbreak. The HHS Secretary's Command Center (SCC) will serve as the national incident command center for all health and medical preparedness, response, and recovery activities. The national response is based on overall geographic risk levels in the United States, as delineated in the CONPlan.

As the component of HHS responsible for disease prevention and control, CDC will have primary responsibility for tracking a SARS outbreak and managing the operational aspects of the public health response. To this end, CDC will augment local and state resources for disease surveillance, epidemiologic response, diagnostic laboratory services and reagents, education and communication, and disease containment and control.

##### **A. State/Local/Jurisdictional Authority**

State and local officials provide the first line of response with respect to preparing and planning for a SARS outbreak at their own jurisdictional level, identifying, managing, and reporting SARS cases, exercising necessary authority to isolate ill persons and quarantine contacts, and imposing other community containment measures. The division of responsibilities between state and local levels varies among states, and often within states, according to the size of the population served by local health agencies.

Local planning for a reemergence of SARS encompasses a variety of activities and involves persons representing a range of disciplines and expertise. Suggested action steps for local and state SARS preparedness planning are provided below. These will need to be interpreted in the context of the responsibilities of particular health agencies and the division of responsibilities in the jurisdiction.

- Designate an executive committee to oversee a SARS planning process, in cooperation with local health agencies and other partners. Draft/formally adopt a SARS response plan, or add SARS preparedness and response activities to existing preparedness plan(s).
- Ensure that the jurisdiction has an incident command structure in place to govern roles and responsibilities during a multi-agency, multi-jurisdictional response.
- Establish a legal preparedness plan (see below).
- Identify the authority responsible for declaration of a public health emergency and for officially activating the SARS response plan during an outbreak.
- Identify key stakeholders responsible for development and implementation of specific components of the SARS plan, including enforcement of isolation, quarantine, and closure and decontamination of premises.
- Ensure that the jurisdiction's elected officials, appointed officials, and other agency heads know their respective responsibilities during a SARS outbreak.
- Understand the controlling authority over intrastate and interstate modes of transportation in the event that these need to be curtailed during an outbreak.
- Develop/reinforce relationships with health authorities of adjoining jurisdictions and with federal agencies to ensure effective communication.
- Identify an overall authority in charge of coordinating different medical personnel groups during an outbreak.
- Identify the key individuals from the state and local authorities who will assist in maintaining public order and enforcing control measures during an outbreak.
- Review procedures for enlisting the assistance of the National Guard and other emergency response organizations.

Appendix A1 is a checklist developed by CDC, the Association of State and Territorial Health Officials (ASTHO), and the National Association of County & City Health Officials (NACCHO) that provides a more comprehensive list of preparedness issues and activities for local and state health public health agencies.

## **II. Legal Authority**

Legal preparedness is a key component of SARS preparedness and response. A response to an outbreak of SARS may require coordination of federal, state, and local legal authorities to impose a variety of emergency public health and containment measures, at both the individual and community levels. These measures might include:

- Active surveillance of potential cases and their contacts
- Isolation (separation and restriction of movement of persons with an infectious disease to stop the spread of infection)
- Quarantine (separation and restriction of movement of well persons who have been exposed to an infectious disease and are therefore potentially infectious)

Experience from the 2003 SARS outbreak demonstrates how closely legal issues are intertwined with public health responses. Within days of the appearance of SARS, Canada, Hong Kong, and Singapore instituted maximum health measures, including large-scale quarantine, to prevent the further spread of SARS-CoV infection. In Ontario, Canada, the provincial government made SARS a reportable communicable disease under Ontario's Health Protection and Promotion Act. This empowered

Canadian public health officials to issue orders to enjoin SARS case-patients from engaging in activities that could facilitate transmission. In the United States, the President signed an executive order on April 4, 2003, adding SARS to the list of quarantinable communicable diseases (<http://www.cdc.gov/ncidod/sars/executiveorder040403.htm>). This executive order provides CDC with the legal authority to implement isolation and quarantine measures for SARS, as part of its transmissible disease-control measures.

U.S. public health officials therefore need to be knowledgeable about the legal authorities and statutes that exist at the local, state, and federal levels for enforcing these measures. In general, the federal government has primary responsibility for preventing the introduction of communicable diseases from foreign countries into the United States, and states and local jurisdictions have primary responsibility for isolation and quarantine within their borders. The authority to compel isolation and quarantine is derived from each state's inherent "police power," the authority of all state governments to enact laws and promote regulations to safeguard the health, safety, and welfare of its citizens. By statute, the HHS Secretary may accept state and local assistance in the enforcement of federal quarantine and other health regulations and may assist state and local officials in the control of communicable diseases. Because isolation and quarantine are "police power" functions, public health officials at the federal, state, and local levels may occasionally seek the assistance of their respective law enforcement counterparts to enforce a public health order.

Three issues related to legal authorities that might be required to contain SARS are essential to ensuring preparedness for a rapid response:

- Prior identification of relevant legal authorities, persons, and organizations empowered to invoke and enforce such authorities
- Public trust and compliance with government directives, which includes due process protections to treat individuals with dignity and fairness
- Protection of personnel required to implement and enforce the measures

Appendices A2 and A3 were developed by CDC in consultation with external partners. Appendix A2 is a checklist of legal considerations related to SARS preparedness and response at the community level. Appendix A3 is a fact sheet that outlines some practical steps for SARS legal preparedness. Additional considerations related to community containment measures, including isolation and quarantine, are addressed in Supplement D.

### **III. Incident Command and Management System**

A SARS outbreak affects and involves a variety of public and private agencies and organizations at the local, state, and federal levels that must coordinate their activities and resources and share information in real time. The sustained, coordinated efforts required to control SARS at the local level lend themselves to the principles and structure of incident command and management systems. These systems use a predetermined organizational structure for potential mass casualty events that address planning, operations, logistics, finance, and administration. They are useful in maximizing the use of limited resources, monitoring the status of an outbreak, and consolidating the control of a large number of individual resources.

The success of efforts to rapidly detect, respond to, and contain an outbreak also depends in large part on the availability of information systems that can support and coordinate the activities generated within an incident command system. Such information systems integrate all facilities (public and private) and personnel involved in the response, expedite real-time communication and flow of information, aid in logistics planning and resource management/allocation, and facilitate decision-making and operational coordination.

During the 2003 SARS outbreaks in Toronto, Canadian health officials noted the constant and high demand for information on the dynamics and public health management of the outbreak. These requests derived not only from local, national, and international public health officials but also from clinicians, healthcare organizations, government officials, the media, and the public. Lack of a reliable, centralized, electronic database of outbreak-associated information posed a challenge to tracking the outbreak, monitoring and assessing the outbreak response, and meeting information needs in a timely and complete manner. A basic need of a SARS information system is to integrate information regarding suspected and confirmed cases, exposed contacts, and related laboratory findings. Additional needs during a SARS outbreak include: collecting and organizing situational information, managing staffing needs and requirements, monitoring/supplying persons in isolation and quarantine, maintaining an inventory of respirators and other PPE equipment, tracking the status of/procuring essential supplies, operating special/temporary facilities, and managing administrative and financial aspects of the response.

**An incident management structure supported by adequate information systems** that can address these needs is an essential tool for command, control, and coordination of resources during a SARS outbreak. A component of CDC's incident management structure is the agency's Emergency Operations System, which includes the Director's Emergency Operations Center (DEOC). The goals are to: 1) support the response of federal, state, local, and international health systems in public health emergencies, 2) support the deployment of health assets in response to or anticipation of a public health emergency, and 3) provide real-time situational information to and from federal, state, local, and international agencies, organizations, and field teams. Elements of the Emergency Operations System are operational, health and technical response teams, specialized laboratories and subject matter experts, and alert, notification, and escalation systems. These would all be available for activation and deployment in the event of a reappearance of SARS.

## **Appendices to Supplement A**

### **Appendix A1**

State and Local Health Official Epidemic SARS Checklist: Are You and Your Jurisdiction Ready for Epidemic Severe Acute Respiratory Syndrome (SARS)?

### **Appendix A2**

Checklist of Legal Considerations for SARS Preparedness in Your Community

### **Appendix A3**

Fact Sheet: Practical Steps for SARS Legal Preparedness

## Appendix A1



### STATE AND LOCAL HEALTH OFFICIAL EPIDEMIC SARS CHECKLIST

#### **Are You and Your Jurisdiction Ready for Epidemic Severe Acute Respiratory Syndrome (SARS)?**

This checklist, developed in collaboration with the Centers for Disease Control and Prevention, has been modeled on a previous Association of State and Territorial Health Officials (ASTHO) checklist for pandemic influenza preparedness (*Preparedness Planning for State Health Officials: Nature's Terrorist Attack - Pandemic Influenza* is available at [www.astho.org/pubs/PandemicInfluenza.pdf](http://www.astho.org/pubs/PandemicInfluenza.pdf)). Preparations made to respond to other public health emergencies, including bioterror events, will generally be applicable to epidemic SARS planning.

The items on this checklist are intended for use by health officers at all levels – state, regional, district and local. The division of responsibilities between state and local levels varies among states, and often within states, according to the size of the population served by local health agencies. The items on this checklist should be interpreted in the context of the responsibilities of your public health agency and the division of responsibilities within your community, regardless of level of government. For some local public health agencies, for example, the capabilities needed for certain items may be available from a state health department, but are not present locally.

Every locality should plan for the possibility of a local public health crisis such as widespread SARS, in which help from other public health agencies is not available because they are facing similar crises. At the same time, there are advantages to coordinating response plans on a regional and statewide basis, partly so that isolation and quarantine procedures are applied uniformly and equitably.

SARS would be considered to be widespread in the United States if and when cases occur throughout the nation, in multiple locations, in persons without known epidemiologic links to places with community transmission of SARS or to known SARS cases. Local, district, and state public health agencies should be prepared to address all of the following items when the disease is present elsewhere in the world and to implement those preparations when widespread disease occurs in the United States.

## LEGAL AND POLICY ISSUES

- ☐ 1. My jurisdiction has a draft or formally adopted epidemic SARS plan.
- ☐ 2. Agreements have been obtained with my state's health care insurers, Medicaid program, and healthcare product and service providers for cooperation with public health recommendations during an epidemic.
- ☐ 3. I have reviewed with legal counsel my jurisdiction's laws and procedures on quarantine, isolation, closing premises and suspending public meetings and know how to implement them to help control an epidemic.
- ☐ 4. I am familiar with my state's medical volunteer licensure, liability, and compensation laws for in-state, out-of-state, returning retired, and non-medical volunteers.
- ☐ 5. I know whether my state allows hospitals and other licensed healthcare institutions to use temporary facilities for provision of medical care in the event of a public health emergency.
- ☐ 6. My jurisdiction's epidemic plan addresses Worker's Compensation and Unemployment Compensation issues related to health care and other workers missing work because of isolation or quarantine.
- ☐ 7. I have identified any deficiencies in my jurisdiction's laws and procedures on quarantine, isolation and related capacities and initiated steps to have those deficiencies corrected.
- ☐ 8. I know what provisions are in place, if any, for compensation of persons with economic or health injury resulting from needed SARS control measures and for limitation of liability of health care providers and agencies.

## AUTHORITY

- ☐ 9. My state has an executive SARS epidemic planning committee that oversees the planning process, in cooperation with local health agencies.
- ☐ 10. My state has identified the authority responsible for declaration of a public health emergency and for officially activating our plan during a SARS epidemic.
- ☐ 11. My jurisdiction has identified key stakeholders responsible for development and implementation of specific components of the SARS epidemic plan, including enforcement of isolation, quarantine, and closure and decontamination of premises.
- ☐ 12. My jurisdiction's elected officials, appointed officials, and other agency heads know their respective responsibilities in the event of an epidemic.
- ☐ 13. My jurisdiction has a command system in place (e.g., the Incident Command System) to govern roles and responsibilities during a multi-agency, multi-jurisdictional event.
- ☐ 14. I am familiar with the controlling authority over intrastate and interstate modes of transportation, should these need to be curtailed during an epidemic (e.g., airplanes, trains, ships, highways).
- ☐ 15. My staff has relationships with health authorities of adjoining counties or states and with federal agencies to ensure effective communication during a public health emergency.
- ☐ 16. My jurisdiction has identified an overall authority in charge of coordinating different medical personnel groups during an epidemic.
- ☐ 17. I know personally the key individuals from the state and local authorities who will assist in maintaining public order and enforcing control measures, if needed, during an epidemic.

- ☐ 18. I am familiar with the procedure for enlisting the National Guard's assistance during a public health emergency.

## **SURGE CAPACITY**

- ☐ 19. I know how to access current recommendations on treatment of cases and prevention of transmission in the hospital, long-term care and home care settings.
- ☐ 20. My jurisdiction's emergency response planning has involved health care product and service providers to determine how to best prevent and control disease spread and manage the health care of the population during an epidemic.
- ☐ 21. I am familiar with the required protocol for securing needed emergency healthcare services and supplies during a public health emergency.
- ☐ 22. My jurisdiction has identified ways to augment medical, nursing, and other health care staffing to maintain appropriate standards of care during an epidemic.
- ☐ 23. My jurisdiction has identified ways to augment public health laboratory, epidemiology and disease control staffing to meet emergency needs and in the event public health workers are affected by an epidemic.
- ☐ 24. My jurisdiction has a process to recruit and train medical volunteers for provision of care and vaccine administration during a public health emergency.
- ☐ 25. My jurisdiction has identified alternate facilities where overflow cases from hospitals and well persons needing quarantine away from home can be cared for and has developed processes with Emergency Medical Services to assess, communicate, and direct patients to available beds.
- ☐ 26. My jurisdiction has identified facilities for outpatient and inpatient care of children with SARS and their families.
- ☐ 27. My jurisdiction's epidemic plan addresses the mechanics of how isolation and quarantine will be carried out, such as providing support services for people who are isolated or quarantined to their homes or temporary infirmary facilities and protection for workers providing these services.
- ☐ 28. My jurisdiction has a plan for ensuring that appropriate personal protective equipment, including N-95 or higher level respirators, is made available for persons whose job requires exposure to people with SARS, and that needed training and fit-testing are provided.
- ☐ 29. My jurisdiction has a plan for dealing with mass mortality, including transportation and burial of bodies.
- ☐ 30. My jurisdiction has a plan for providing mental health services to mitigate the impact of a SARS epidemic.

## **COMMUNICATIONS AND EDUCATION**

- ☐ 31. I have conveyed the importance of epidemic preparedness, and its overlap with bioterrorism preparedness, to my jurisdiction's chief executive and to other state and local law and policy makers.
- ☐ 32. I know personally the key individuals from public health agencies, the medical community, and the political community with whom I will need to communicate during an epidemic.
- ☐ 33. My jurisdiction has begun educating the public on epidemic SARS to instill acceptance of the epidemic response (including quarantine and isolation) and to optimize public assistance during an epidemic.
- ☐ 34. My jurisdiction has opened a regular channel of communication and begun educating health care providers (including first responders) and their

- organizations and unions on epidemic SARS (including diagnosis, treatment, and management of cases and contacts to prevent transmission).
- ❑ 35. My jurisdiction has opened a regular channel of communication and begun educating chief executive officers of health care organizations on epidemic SARS (including management of patients in health care settings, health care worker protection, physical facility needs, voluntary or forced furloughs of exposed workers, etc.).
  - ❑ 36. My jurisdiction has established a multi-component communications network and plan for sharing of timely and accurate information among public health and other officials, medical providers, first responders, the media and the general public.
  - ❑ 37. My jurisdiction has begun identifying and planning to produce and provide education and information materials for media, providers, the public, and occupational groups whose duties may expose them to SARS, in appropriate languages and in forms suitable for limited literacy populations.
  - ❑ 38. Whoever is selected as the primary public spokesperson for my jurisdiction during an epidemic is ready to clearly and consistently answer the following types of questions:
    - ❑ How is the SARS-associated coronavirus (SARS-CoV) transmitted?
    - ❑ How long are people infectious after they have SARS?
    - ❑ What is isolation? What is quarantine?
    - ❑ What is the justification for isolation of cases and quarantine of contacts?
    - ❑ What is the legal authority for isolation of cases and quarantine of contacts?
    - ❑ What is the difference between a probable and a suspected SARS case?
    - ❑ Who should be tested for the SARS-associated coronavirus?
    - ❑ What can members of the public do to protect themselves?
    - ❑ In the event a vaccine or antiviral treatment become available, what specific priority groups might be vaccinated or treated first?
  - ❑ 39. My jurisdiction has identified the most effective media to get messages out to the public during an epidemic (e.g., TV, radio, print media, internet, Web sites, hotlines).
  - ❑ 40. My jurisdiction has planned how to coordinate state, local, and federal public messages and ensure they are consistent and timely.

## LABORATORY AND SURVEILLANCE

- ❑ 41. In the event of a SARS epidemic, I will have available daily counts of key community health indicators, such as numbers of emergency department visits, hospital admissions, deaths, available hospital beds and staff, facility closings, numbers of contacts being traced and numbers under quarantine.
- ❑ 42. The public health laboratory that serves my jurisdiction can test for the SARS-associated coronavirus by serology and/or PCR.
- ❑ 43. My state has identified those labs that can test for the SARS-associated coronavirus.
- ❑ 44. The public health laboratory that serves my jurisdiction has linked to clinical laboratories and provided training on the use of SARS tests, biosafety, specimen collection, packing and shipping, and rule-out testing.
- ❑ 45. Public health laboratories in my state have computerized record-keeping to help with data transmission, tracking, reporting of results to patients and facilities, and analysis during an epidemic.
- ❑ 46. My jurisdiction has determined how to assess and document the spread and impact of disease throughout the population, including special populations at



- risk (such as health care workers and first responders), during a SARS epidemic, including enhancements to routine surveillance.
- ❑ 47. My jurisdiction has computerized record-keeping for cases, suspected cases, contacts, and persons under public health isolation or quarantine orders to help with data transmission, tracking and analysis during an epidemic.
  - ❑ 48. My jurisdiction's epidemiology staff, in cooperation with other public health agencies, has the capacity to investigate clusters of SARS cases, to determine how disease is being transmitted, to trace and monitor contacts, to implement and monitor quarantine measures, and to determine whether control measures are working.
  - ❑ 49. My jurisdiction has plans for educating health care providers about recognition and reporting of SARS, about the current case definition, and about sources of current information on all aspects of SARS.

### **PREPAREDNESS IN OTHER AGENCIES**

- ❑ 50. The emergency response system is ready to deal with epidemic SARS as called for in an all-hazards or epidemic plan.
- ❑ 51. My jurisdiction has carried out a community-wide epidemic SARS table-top or field exercise, to train on and evaluate its epidemic plan.
- ❑ 52. Community partners such as hospitals, EMS services, law enforcement agencies, health care practitioners, environmental hygiene/remediation services, news media, schools, and colleges know what part they are expected to play during an epidemic and are prepared to do so.
- ❑ 53. The law enforcement and court system in this jurisdiction are prepared to enforce isolation and quarantine orders and to promptly adjudicate appeals to public health orders, as provided by statute.

### **VACCINATION / ANTIVIRALS**

At present (May, 2003), there is neither a vaccine nor effective antiviral chemotherapy available for SARS. The items below will become relevant when one or both of these become available.

- ❑ V1. My jurisdiction has identified the method(s) of epidemic vaccine and antiviral delivery (i.e., public sector, private sector, or a combination of these two) that will be most efficient for the jurisdiction, and developed and tested methods for mass administration.
- ❑ V2. I know whether my state statutes provide for providing or requiring vaccination or treatment during an infectious disease emergency, and know how to implement them in my jurisdiction to help control an epidemic.
- ❑ V3. My jurisdiction has the infrastructure in place to vaccinate or treat at-risk and hard-to-reach populations during a SARS epidemic.
- ❑ V4. My jurisdiction's epidemic plan outlines a process for identifying essential workers (those people whose jobs/skills are critical for maintenance of public safety and an efficient epidemic response) and "highest risk" groups who will need to receive priority vaccination and/or antiviral prophylaxis.
- ❑ V5. My jurisdiction has developed a documentation process for administered epidemic vaccine and antiviral doses, with recall capacity if more than one dose is required to induce immunity.
- ❑ V6. My jurisdiction has determined how adverse vaccine or medication side effects will be documented, in cooperation with local health agencies, during a mass or targeted vaccination or prophylactic treatment campaign.

- ☐ V7. My jurisdiction has compiled a list of health care workers and institutions that will assist in mass vaccination or prophylactic treatment during an epidemic or other public health emergency.
- ☐ V8. My jurisdiction has identified ways to secure and protect a limited supply of essential medicines, supplies, equipment and vaccines.
- ☐ V9. My jurisdiction has developed and tested, through a simulated exercise, a plan for mass or targeted immunization, prophylactic treatment, and clinical care including: accepting delivery of large quantities of vaccine, drugs, supplies or equipment (e.g., as part of the Strategic National Stockpile); storing and handling vaccine, drugs, supplies or equipment; setting up and staffing clinics; administering vaccine or antiviral drugs; and educating the public, media, and medical providers.

## Appendix A2

### **Checklist of Legal Considerations for SARS Preparedness in Your Community**

The global emergence of SARS presents challenges to the public health system at all levels of government. If SARS reemerges, the potential exists for implementation of isolation and/or quarantine within a given community. There is great variation among state and local laws regarding compelled isolation and quarantine.

The following checklist is a planning tool for lawyers highlighting the relevant partners, resources, planning considerations, due process considerations, and issues of legal liability and immunity that may arise in the context of any public health emergency whether natural or man-made. This checklist specifically addresses SARS. Next to each consideration are listed the legal partners (e.g., public health, hospitals, public safety, emergency management, judiciary) who may be called upon to address these considerations as part of the affected community's response. The challenge of the public health response is to protect the health of many, while safeguarding the rights of the individual. An integrated and coordinated response by attorneys at all levels in the community is essential to achieving this goal.

The checklist format is not intended to set forth mandatory requirements or establish a national standard for legal preparedness. Rather, each state and local jurisdiction should determine for itself whether it is adequately prepared for disease outbreaks in accordance with its own laws and procedures.

#### **Planning Considerations**

- ☐ Public health personnel have a basic understanding of the **intersection among federal, state, and local laws** regarding quarantine and isolation as they relate to international airports and interstate border crossings. [public health/public safety/emergency management]
- ☐ Where applicable, draft legal orders, motions, and templates exist authorizing **medical evaluation of non-compliant individuals** meeting SARS case definition and displaying SARS symptoms. [public health/hospitals]
- ☐ Legal counsel has reviewed the feasibility of requiring individuals to **self-monitor for medical conditions** (e.g., temperature checks, and (where applicable) drafted legal orders or agreements). [public health]
- ☐ Legal counsel has reviewed the feasibility of issuing **"exclusion" orders**, (i.e., excluding case contacts from using public transportation, attending public meetings and, where applicable, drafted templates and legal orders. [public health/public safety/emergency management]
- ☐ Statute, regulation, or other administrative mechanism exists authorizing the isolation/quarantine of individuals for SARS. [public health/public safety/judiciary]
- ☐ Draft legal orders, motions, and templates exist for isolation/quarantine of individuals in **homes, hospitals, or other designated facilities**. [public health/hospitals/emergency management/public safety]
- ☐ Legal counsel has reviewed the feasibility of using **electronic methods to monitor** suspected non-compliant individuals in home isolation and/or quarantine. [public health/public safety]
- ☐ Draft legal orders, motions, and templates exist to **quarantine facilities** and to credential ingress and egress into such facilities. [public health/public safety/emergency management]

- ❑ Legal counsel has reviewed the feasibility of using **faith-based organizations** to render assistance or provide services to persons under isolation/quarantine. [public health]
- ❑ Public health has reviewed the availability of workers' compensation and/or other forms of **financial support** for persons unable to return to work because of isolation/quarantine order. [public health]
- ❑ Legal counsel has considered whether public health department should issue documents designed to assist with **reintegration of persons** subject to isolation/quarantine order (e.g., letter to employer or school explaining that patient is no longer infectious). [public health]
- ❑ Legal counsel has reviewed agreements relating to **overtime and/or flexibility of hours** for staff during public health emergencies. [public health/hospitals/public safety/emergency management]
- ❑ Legal counsel has clear understanding of legal authorities relevant to **environmental remediation** of buildings. [public health/hospitals/emergency management]

### Partnerships/Outreach

- ❑ A **legal preparedness task force** has been assembled with individuals representing public health, public safety, hospitals, emergency management, judiciary, and other relevant individuals and/or organizations at various levels of authority: federal, state, local, cross-border, etc. [public health/public safety/hospitals/emergency management/judiciary]
- ❑ Procedures (e.g., use of force guidelines, infection control guidelines, etc.) have been established between public health and public safety for **enforcement of isolation/quarantine orders**. [public health/public safety]
- ❑ Public safety personnel have received **educational materials** relating to SARS and have a clear understanding for how to enforce an isolation/quarantine order. [public health/public safety]
- ❑ Procedures or protocols exist between hospitals and public health to manage a suspect or probable SARS case attempting to **leave the hospital against medical advice**. [public health/hospitals/public safety]
- ❑ Where applicable, memoranda of agreement (MOA) or understanding (MOU) have been drafted to allow for the **loaning of facilities or other services** necessary to implement a quarantine and/or isolation order for individuals unable to home isolate (e.g., travelers, homeless populations). [public health/hospitals/emergency management]
- ❑ Judges and attorneys in the area, through **local bar organizations** or other entities, have received educational materials, training, or information related to SARS and the potential use of isolation/quarantine to interrupt disease transmission. [public health/judiciary]
- ❑ Legal counsel has reviewed and/or drafted **data sharing/data use/confidentiality agreements** related to necessary sharing of confidential patient medical information between public health and other partners. [public health/hospitals/public safety/emergency management]
- ❑ Public health and public safety officials have considered whether to implement a **"Forensic Epidemiology" training course** in their jurisdiction. [public health/public safety]

## Due Process Considerations

- ❑ Draft legal orders and templates **use terms** such as “quarantine,” “isolation,” and “detention” in a **consistent** manner. [public health/judiciary]
- ❑ Legal counsel has reviewed all draft isolation/quarantine orders and forms, as well as applicable administrative hearing procedures, to ensure concurrence with **basic elements of due process** (e.g., adequate notice, opportunity to contest administrative determination, etc.) [public health/judiciary]
- ❑ Procedures or protocols exist to ensure that individuals subject to an isolation/quarantine order have **access to legal counsel**, if desired (e.g., list of attorneys willing to provide services at little or no cost). [public health/judiciary]
- ❑ Legal counsel has analyzed what procedures are necessary to satisfy **due process** in **different isolation/quarantine scenarios** (e.g., “voluntary” home isolation, isolation in a guarded facility, exclusion from certain public activities). [public health/judiciary]
- ❑ Where applicable, public health has worked with local court system to develop 24/7 **“on call” list of judges or hearing officers** to review emergency requests for isolation/quarantine. [public health/judiciary]
- ❑ Public health has worked with local court system to develop a **plan for hearing cases and/or appeals** for individuals subject to isolation/quarantine order (e.g., participation of infected individuals via telephone, video conference) [public health/judiciary]

## Legal Resources and Statutes

- ❑ Legal counsel has reviewed and has a clear understanding of the **legal resources and tools** relevant to a community's public health response. [public health/judiciary/emergency management]  
Such resources and tools include:
  - Draft Model State Emergency Health Powers Act  
<http://www.publichealthlaw.net/MSEHPA/MSEHPA2.pdf>
  - Emergency Management Assistance Compact (model agreement)  
[http://www.emacweb.org/EMAC/About\\_EMAC/Model\\_Legislation.cfm](http://www.emacweb.org/EMAC/About_EMAC/Model_Legislation.cfm)
  - Emergency Management Assistance Compact (as implemented in a state or jurisdiction)
  - Memorandum of Understanding for Establishment of Local Public Health Mutual Aid and Assistance System  
<http://www.publichealthlaw.net/Resources/ResourcesPDFs/MOU.pdf>
  - American Bar Association Draft Checklist for State and Local Government Attorneys to Prepare for Possible Disasters  
[http://www.publichealthlaw.net/Resources/ResourcesPDFs/ABA\\_checklist.pdf](http://www.publichealthlaw.net/Resources/ResourcesPDFs/ABA_checklist.pdf)
  - Buncombe County Health Center Forensic Epidemiology Quarantine Task Force Report  
<http://www.phppo.cdc.gov/od/phlp/> (to be posted)
  - Communicable Disease Control Measures in Texas: A Guide for Health Authorities in a Public Health Emergency  
<http://www.tdh.state.tx.us/phpep/lha>
 Additional materials and resources may be posted at  
<http://www.phppo.cdc.gov/od/phlp/>
- ❑ Draft letters or fact sheets are distributed to hospitals and/or other healthcare providers describing permissible uses and disclosures of health information for public health purposes under the **Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA)**. [public health/hospitals]

- ❑ Where applicable, legal counsel has clear understanding of procedures to **declare a public health emergency** (at various levels of government) and consequences flowing from such a declaration. [public health/public safety/emergency management]
- ❑ Legal counsel is familiar with the requirements of the **Emergency Medical Treatment and Active Labor Act (EMTALA)** and has reviewed whether such requirements have been incorporated into public health and hospital planning for SARS. [public health/hospitals]
- ❑ Legal counsel has reviewed **hospital screening and admission procedures** for potential SARS patients (e.g., establishment of screening clinics for individuals complaining of SARS-like symptoms) for compliance with **EMTALA** [public health/hospitals]
- ❑ Legal counsel has reviewed potential **EMTALA** implications of a **community-wide EMS protocol** for transport of SARS patients (e.g., protocol requiring transport of SARS patients to a hospital or facility other than the hospital that owns the ambulance). [public health/hospitals/emergency management]

### Legal Liability and Immunity

- ❑ Legal counsel has reviewed the potential legal liability of implementing a **“working” quarantine for essential service personnel** (e.g., requesting potentially exposed HCWs to continue working provided that infection control precautions are observed when treating non-exposed patients. [public health/hospitals]
- ❑ Legal counsel has reviewed the potential legal liability of housing suspect/probable SARS patients in **home isolation with non-exposed residents** subject to infection-control precautions (e.g., surgical mask, limited interaction with family members). [public health]
- ❑ Legal counsel has reviewed liability/immunity for **volunteers** providing assistance or services to persons under isolation/quarantine. [public health/emergency management]

## **Appendix A3**

### **Fact Sheet: Practical Steps for SARS Legal Preparedness**

#### **Step 1: Know your legislation**

State and local public health officers need to be familiar with the legal requirements in their jurisdictions regarding isolation of infectious persons and quarantine of exposed persons. Although most states have laws to compel the isolation and/or quarantine of an individual, procedures may vary widely from jurisdiction to jurisdiction. Key persons, such as legal counsel, judges, and policymakers, should be identified and made part of your jurisdiction's planning for SARS.

#### **Step 2: Plan "due process"**

Procedural due process is implicated when the government seeks to deprive an individual of "liberty" interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment to the U.S. Constitution. Many states, through statute or regulation, have established specific administrative and judicial schemes for affording due process to a person subject to a quarantine and/or isolation order. Schemes in other jurisdictions may not directly address this issue.

Although due process is a flexible concept and calls for procedural protections as the particular situation demands, the basic elements of due process include: adequate notice (typically through written order) of the action the agency seeks to compel; right to be heard (typically through the right to present evidence and witnesses and to contest the government's evidence and witnesses); access to legal counsel; and a final administrative decision that is subject to review in a court of law. These due process protections should not impede the immediate isolation or quarantine of an individual for valid public health reasons in an emergency situation.

#### **Step 3: Draft key documents in advance**

State and local public health officers should consider drafting key documents in advance of an emergency. These template documents can be critical time savers in an emergency. Documents that jurisdictions should consider preparing in advance include: draft quarantine and/or isolation orders; supporting declarations and/or affidavits by public health and/or medical personnel; and an explanation of the jurisdiction's due process procedures for persons subject to an isolation/quarantine order. Examples of documents created by other jurisdictions are found at: <http://www.phppo.cdc.gov/od/phlp/>

#### **Step 4: Contact other jurisdictions**

It is possible for federal, state, and local health authorities simultaneously to have separate but concurrent legal quarantine power in a particular situation (e.g., an arriving aircraft at a large city airport). Furthermore, public health officials at the federal, state, and local level may occasionally seek the assistance of their respective counterparts, e.g., law enforcement, to assist in the enforcement of a public health order. State and local public health officers should therefore be familiar with the roles and responsibilities of other jurisdictions: vertically (local, state, federal), horizontally (public health, law enforcement, emergency management, and health care), and in geographical clusters (overlapping state/local neighbors).

#### **Step 5: Engage the courts in advance**

Some jurisdictions may rely on older public health statutes that have not been amended in over half a century, while other jurisdictions may have recently revised their legal authorities to respond to bioterrorism or other public health emergencies. Judges who may be called upon to review a public health order may not be familiar with the state or local health authority's broad public health powers. During the SARS outbreak in Toronto, Canada, for example, many judges were surprised by the health officer's broad ex parte authority to compel isolation/quarantine under rarely used laws.

**Step 6: Anticipate practical problems**

State and local public health officers need to be prepared for the practical problems that may arise in affording adequate due process protections to persons subject to isolation and/or quarantine orders. Such problems, for example, may include how to arrange for the appearance and representation of persons under quarantine (e.g., through video conference or other remote means); how to serve an isolation/quarantine order on an individual (likely through law enforcement) and other procedures to advise such individuals of their legal rights; and isolation arrangements for transients or homeless populations.

**Step 7: Communication ... communication ... communication**

Communication planning is vital not only for an effective public health response but also for an effective legal response to a public health emergency. Public health agency counsel should be aware of media training available to other public health officers. During the SARS and monkeypox outbreaks, CDC, through the Public Health Law Program, established telephone conferences for public health legal counsel to share experiences and engage in peer-to-peer consultations. Efforts are now underway to develop materials to assist state and local public health agencies in conducting further outreach on emergency public health issues to the legal community through local bar associations.